



**DEPARTMENT OF THE NAVY**  
BOARD FOR CORRECTION OF NAVAL RECORDS  
701 S. COURTHOUSE ROAD, SUITE 1001  
ARLINGTON, VA 22204-2490

[REDACTED]  
Docket No. 2593-22  
Ref: Signature Date

From: Chairman, Board for Correction of Naval Records  
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]  
[REDACTED]

Ref: (a) Title 10 U.S.C. § 1552  
(b) MCO 1610.7A

Encl: (1) DD Form 149 w/ enclosures  
(2) Fitness Report for the reporting period 1 Feb 21 to 3 May 21  
(3) HQMC memo 1610 MMRP-30, 22 Oct 21  
(4) HQMC memo 1610 MMRP-13/PERB, 7 Mar 22  
(5) Fitness Report for the reporting period 1 Feb 21 to 3 May 21 (modified)

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with the Board for Correction of Naval Records (Board), requesting that his naval record be corrected by removing the reporting senior (RS) Section I comments of the fitness report for the reporting period 1 February 2021 to 3 May 2021.

2. The Board reviewed Petitioner's allegations of error and injustice on 7 July 2022, and pursuant to its regulations, determined that the corrective action indicated below should be taken. Documentary material considered by the Board consisted of the enclosures, relevant portions of Petitioner's naval records, and applicable statutes, regulations, and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulation within the Department of the Navy.

b. Petitioner contends that his fitness report at enclosure (2) is erroneous and unjust because the RS comments in Section I of the fitness report are not compliant with reference (b). Specifically, Petitioner argues that the comments include negative and adverse remarks that render the report adverse. The Board noted that the RS comments were qualified with negative criticism and caveats.

c. Enclosure (3), an advisory opinion (AO) furnished by Headquarters, Marine Corps Performance Evaluation Section (MMRP-30), recommended removing the RS portion of the fitness report in its entirety. The AO determined that the RS used the report as a counseling tool. The AO noted that upon review of the comments, it was obvious that the RS considered certain

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facets of Petitioner's performance and conduct to be substandard. Instead of either processing an adverse evaluation, or process a non-adverse evaluation that conforms to established Performance Evaluation System Manual edict, spirit, and intent, the AO determined that the RS tried to straddle the boundary, with tacit approval by the Reviewing Officer. The AO determined that "[i]n this particular case, redaction is not an option, since the balance of the RS comments are negative and/or adverse" and added that "MMRP-31 opined that the report should not have been accepted for inclusion into the official record as written, and that the Section I evaluation was essentially negated."

The AO concluded the Petitioner met the burden of proof and shown by preponderance of evidence probable material error, substantive inaccuracy, or injustice, warranting modification of the contested fitness report, and recommended removal of the RS portion of the evaluation in its entirety.

d. On 7 March 2022, the Headquarters Marine Corps Performance Evaluation Review Board (PERB) disagreed with the AO and found that the error did not warrant removal of the entire RS portion of the fitness report, and directed modification of only some of the Section I comments, specifically by redacting the following: "[b]alancing tasks and providing constructive supervision to his Marines is continuing to be refined. His work ethic, when supervised, has the potential to be true force multiplier. With further development I have zero doubt that he will be able to surpass his peers. He is eager to lead his Marines during field exercises but slows down momentum during garrison." Enclosure (4). The Board thus considered Petitioner's request to remove Section I comments from the contested fitness report, as modified by the PERB. Enclosure (5).

#### MAJORITY CONCLUSION

Upon review and consideration of all the evidence of record the Board Majority determined that Petitioner's request warrants relief. In this regard, the Board noted that reference (b) states "comments identifying minor limitations, shortcomings, occasional lapses, or weakness in an otherwise overall positive performance...serve no constructive purpose foster a zero-defect mentality, are most often counseling comments for the [Marine Reported On], and not germane to the overall evaluation." The Majority substantially concurred with the AO that the RS did not adhere to the Performance Evaluation System principles; trying to add adverse comments without processing an adverse fitness report, and that the evaluation constituted counsel instead of observation. The Majority concurred with the AO that redaction of the RS's prohibited comments alone would not correct the error. The Majority noted that the fitness report was forwarded to MMRP-31, and MMRP-31 opined that it should not have been accepted for inclusion into the official record as written. The Majority thus concluded that the entire RS portion of Petitioner's fitness report, as modified by the PERB, shall be redacted.

#### MAJORITY RECOMMENDATION

In view of the above, the Board Majority members recommend the following corrective action:

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Petitioner's naval record be corrected by removing in its entirety, the RS portion of the fitness report for the reporting period 1 February 2021 to 3 May 2021 at enclosure (5).

That no further changes be made to Petitioner's naval record.

#### MINORITY RECOMMENDATION

Upon review and consideration of all the evidence of record, the Board Minority member concurred with the PERB-directed corrective action. The Minority member determined that the fitness report, as modified by the PERB on 7 March 2022, corrected the error and that no further modification of the contested report was warranted.

#### MINORITY CONCLUSION

In view of the foregoing, the Board Minority recommends that no corrective action be taken on Petitioner's naval record.

4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above-entitled matter.
5. The foregoing action of the Board is submitted for your review and action.

8/11/2022

[REDACTED]  
Executive Director

From: Assistant General Counsel (Manpower and Reserve Affairs)

Reviewed and Approved Majority and AO Recommendation (Grant Requested Relief, plus additional relief to remove RS portion in its entirety)

Reviewed and Approved Petitioner's request (Grant Relief, remove Section I comments only)

Reviewed and Approved Minority Recommendation (Deny Relief)

9/15/2022

[REDACTED]  
Assistant General Counsel (M&RA)